IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NO : 3528 of 1998

Between:

P. Koteswara Rao, S/o Subbaiah, RTC Driver, E.No.54249, Repalle Depot, resident of Jillepalli, Thotapalli post, Nagaram Mandal, Guntur District.

..... PETITIONER

AND

1. The Deputy Chief Traffic Manager, APSRTC, Guntur.
2. The Divisional Manager, APSRTC, Guntur.
3. The Depot Manager, APSRTC, Repalle Depot, Guntur District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ, order or direction one more particularly in the nature of Mandamus; (a) declaring the proceedings No.Steno/19(209)/96-DY.CTM, dated 28.12.1996 of the 1st respondent-Dy.Chief Traffic Manager, Guntur confirming the orders of the 2nd respondent in proceedings No.PA/20(82)/93-DVM(G), dated 11.06.1993 and the proceedings No.01/2(15)89-RPL, dated 18.09.1990 of the 3rd respondent is bad, arbitrary and illegal and violative of the principles of natural justice and unconstitutional and (b) consequently declaring the proceedings No.01/2(15)/89-RPL, dated 18.09.1990 and consequential proceedings No.01/2(15)/89-RPL, dated 25.01.1991 of the 3rd respondent is arbitrary, unreasonable and set aside the same.

Counsel for the Petitioner: MR.W.B.SRINIVAS

Counsel for the Respondents: MR.R.MANMADHA REDDY (SC FOR APSRTC)

The Court made the following :

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ORAL ORDER:

The petitioner was alleged with some misconduct in causing fatal accident to a boy and thereafter an enquiry was conducted and on 18.09.1990 a final show cause notice was issued to the petitioner, wherein, the disciplinary authority had come to the conclusion that the punishment of withholding annual increment for a period of two years which shall have an effect on future increments, besides treating the suspension period as 'leave due' is fit and proper to be imposed on the petitioner and suspension was lifted and he was permitted to join duty.

Learned counsel for the petitioner submits that in the final show cause notice the punishment of stoppage of annual increment for a period of two years, which will have the effect on future increments, was imposed and in this respect it became final, and the only explanation asked for is as to why the period of suspension should not be treated as 'leave due', failing which it will be presumed that he has no explanation to offer in the matter and final orders will be issued. The petitioner submitted his explanation in this respect and final order was passed on 25.01.1991 holding that the period of suspension be treated as 'leave due'. Learned counsel for the petitioner also further contends that this itself would make it clear that the show cause notice was given only as to treating the period of suspension as 'leave due' and so far as imposing punishment of stoppage of annual increment for a period of two years became final and there was no show cause notice in this regard.

I am in full agreement with the argument advanced by the learned counsel for the petitioner. The final show cause notice in so far as imposing the punishment of stoppage of annual increment for a period of two years was concerned was a final order and in respect of treating the suspension period as 'leave due' was a show cause notice. Therefore it can be said that the petitioner had no opportunity of explaining as to the imposing a punishment of stoppage of annual increment for a period of two years and therefore the order of imposing punishment of stoppage of annual increment for a period of two years is not in tune with the Andhra Pradesh State Road Transport Corporation (CCCA) Regulations and does not stand the scrutiny of law.

Therefore, the final show cause notice dated 18.09.1990 is set aside to the extent of imposing punishment of stoppage of annual increment for a period of two years which will have an effect on the future increments. However, this will not preclude the authorities in taking up fresh proceedings as to imposition of stoppage of increments, if so desired. Insofar as the final order passed with respect to the treating the suspension period as 'leave due' cannot be interfered.

Accordingly, the Writ Petition is allowed to the extent indicated above. No costs.

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10.09.2004

Nsr

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Friday the Tenth day of September, Two Thousand and Four.

To

1.The Deputy Chief Traffic Manager, APSRTC, Guntur.

2.The Divisional Manager, APSRTC, Guntur.

3.The Depot Manager, APSRTC, Repalle Depot, Guntur District.

4. Two CD copies.